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February 24, 2012

DEPARTMENT OF REAL ESTATE

By & your

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

To:

MORTGAGE AUDITING PROGRAM, a division of A.M.T., and, AMT AUDITING SERVICES, LLC

No. H-5785 SAC

ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner of the California Department of Real Estate ("Department") caused an investigation to be made into the activities of MORTGAGE AUDITING PROGRAM, a division of A.M.T. ("MAP"), and AMT AUDITING SERVICES, LLC ("AMT"). Based on the investigation, the Commissioner has determined that MAP and AMT have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including the business of, acting in the capacity of, and/or advertising or assuming to act as, a real estate broker in the State of California within the meaning of Section 10131(d) (Performing Services for Borrowers in Connection with Loans Secured by Real Property), Section 10085.5 (Payment of Advance Fees for Borrowers in Connection with Loans Secured by Real Property), and Section 10130 of the Code (Unlawful to Act as A Real Estate Broker of Salesperson Without First Obtaining a Real Estate License from the Department). Furthermore, based on the investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

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Whenever acts referred to below are attributed to MAP those acts are alleged to have been done by MAP, acting by itself, or by and/or through one or more agent, associate, affiliate, and/or co-conspirator, including, but not limited to, AMT.

FINDINGS OF FACT

- 1. At all times herein, MAP and AMT were not licensed to do business in the State of California, but are registered with Department of Commerce for the State of Utah.
- 2. At no time herein mentioned have MAP and/or AMT nor its registered principal, ENLIGHTENED, LLC, been licensed in any capacity by the Department of Real Estate.
- 3. During at least the period set out below, MAP and AMT and/or other agents, associates, affiliates, and/or co-conspirators, in violation of Section 10130 of the Code (Unlawful to Act as A Real Estate Broker of Salesperson Without First Obtaining a Real Estate License from the Department), solicited one or more borrowers to do one or more of the following acts for or in expectation of compensation: perform residential mortgage loan audits for loans secured directly or collaterally by one or more liens on real property; and charge or demand an advance fee for the mortgage loan audits services offered, all in violation of Code Section 10131(d) (Performing Services for Borrowers in Connection with Loans Secured by Real Property), Code Section 10085.5 (Payment of Advance Fees by Borrowers in Connection with Loans Secured by Real Property).
- 4. On or about November 16, 2011, Joe C. received a "Mortgage Audit Notice" from MAP offering to perform a "mortgage analysis and refund review" on the mortgage loan which is secured by real property owned by Joe C. in Roseville, California.
- 5. On or about September 9, 2011, William F. received a "Mortgage Audit Notice" from MAP offering to perform a "mortgage analysis and refund review" on the mortgage loan which is secured by real property owned by the William F. family in Elk Grove, California.

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6. On or about November 2, 2011, in a letter to a Special Investigator for the Department, Rex H. Huang, attorney for AMT, confirmed that Respondents did perform mortgage audits for an advance fee of \$249.00 which was charged to a client's credit card.

7. On or about November 22, 2011, the Special Investigator made telephonic contact with Rex H. Huang and confirmed the details contained in his letter of November 2, 2011. Further Mr. Huang stated that the information concerning the program specifics was provided to the customers during a telephone call which was recorded by AMT. Mr. Huang further stated that if the audit found nothing or found errors totaling less than \$249.00, the client could apply to AMT for a rebate of the fee paid less any actual discrepancy found that was less than the \$249.00 fee.

CONCLUSIONS OF LAW

8. Based on the findings of fact contained in paragraphs 1 through 7, above, MAP and/or AMT, acting by and/or through MAP and/or AMT and/or one or more agents, associates, affiliates, and/or co-conspirators, all of whom are unknown at this time, in violation of Section 10130 of the Code (Unlawful to Act as A Real Estate Broker of Salesperson Without First Obtaining a Real Estate License from the Department), solicited one or more borrowers to do one or more of the following acts for or in expectation of compensation: perform residential mortgage loan audits for loans secured directly or collaterally by one or more liens on real property; and charge or demand an advance fee for the services offered, in violation of Section 10131(d) of the Code (Performing Services for Borrowers in Connection with Loans Secured by Real Property), Section 10085.5 of the Code (Payment of Advance Fees by Borrowers in Connection with Loans Secured by Real Property).

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Based on the Findings of Fact and Conclusions of Law stated herein:

MORTGAGE AUDITING PROGRAM, a division of A.M.T. ("MAP"), doing business as AMT, and/or any doing business as any other unknown business entity or individual which does not hold a valid a broker license issued by the Department, is HEREBY ORDERED to:

- 1. Immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular, MAP is ordered to desist and refrain from soliciting borrowers and/or performing services for borrowers or lenders in connection with loans secured directly or collaterally by one or more liens on real property, unless and until MAP obtains a real estate broker license issued by the Department.
- 2. Immediately desist and refrain from charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any of the services MAP offers to others, unless and until MAP demonstrates and provides evidence satisfactory to the Commissioner that MAP is properly licensed by the Department as a real estate broker, and:
- (a) MAP has an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Regulations;
- (b) MAP has placed all previously collected advance fees into a trust account for that purpose and is in compliance with Section 10146 of the Code;
- (c) MAP has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and,

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(d) MAP is in compliance with California law, as amended effective as of October 11, 2009, with respect to loan modification and/or forbearance services. Under the amended law, MAP can only collect advance fees for loan modification or other mortgage loan forbearance services related to commercial loans and loans for residential properties containing five or more dwelling units.

AMT AUDITING SERVICES, LLC. ("AMT"), doing business as MAP, and/or any doing business as any other unknown business entity or individual which does not hold a valid a broker license issued by the Department, is HEREBY ORDERED to:

- 1. Immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required, and in particular, desist and refrain from soliciting borrowers and/or performing services for borrowers or lenders in connection with loans secured directly or collaterally by one or more liens on real property
- 2. Immediately desist and refrain from charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any of the services AMT offers to others, unless and until AMT demonstrates and provides evidence satisfactory to the Commissioner that AMT is properly licensed by the Department as corporate real estate broker, and:
- (a) AMT has an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Regulations;
- (b) AMT has placed all previously collected advance fees into a trust account for that purpose and are in compliance with Section 10146 of the Code;
- (c) AMT has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and,

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(d) AMT is in compliance with California law, as amended effective as of October 11, 2009, with respect to loan modification and/or forbearance services. Under the amended law, AMT can only collect advance fees for loan modification or other mortgage loan forbearance services related to commercial loans and loans for residential properties containing five or more dwelling units.

DATED: ________, 2012

BARBARA J. BIGBY Acting Real Estate Commissioner

- NOTICE -

Business and Professions Code Section 10139 provides that "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000)."

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